

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:10KD-003

Kauai

Grant of Perpetual Non-Exclusive Easement to Kauai Island Utility Cooperative (KIUC) for Access and Utility Purposes Over Governor's Executive Order No. 4217 to the County of Kauai, for Fire Station Purposes and Authorize the Issuance of a Right-of-Entry for Planning, Construction, and Management Purposes, Kapaa, Kauai, Tax Map Key: (4) 4-6-14: 26

APPLICANT:

Kauai Island Utility Cooperative, a consumer cooperative association formed pursuant to the provisions of Chapter 421C, Hawaii Revised Statutes.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-14: 26, as shown on the attached map labeled Exhibit A.

AREA:

3,000 Square Feet, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Public ST-P

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 4217 to the County of Kauai, for Fire Station Purposes

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on April 23, 2006 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Governor's Executive Order No. 4217 to the County of was issued on January 28, 2008 for fire station purposes. The County of Kauai is in the process of building a new fire station in Kapaa. The project plans include the installation of a transformer that requires the creation of

a non-exclusive utility easement to facilitate electrical transmission over State lands.

The following agencies were solicited for comments:

State Agencies: Historic Preservation, Department of Transportation, HWY and Office of Hawaiian Affairs – No response.

Department of Health – Offered environmental health concerns (see Exhibit B)

County Agencies: Planning Department – No response.
Public Works - We support the proposed request for grant of non-exclusive perpetual easement for access and utility purposes and immediate right-of-entry for planning and construction within Governor's Executive Order No. 4217.

KIUC and the County of Kauai are requesting an immediate right-of-entry for planning, construction, and management purposes so the new fire station can be completed as soon as possible.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement Kauai Island Utility Cooperative, covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a right-of-entry permit to Kauai Island Utility Cooperative, for planning, construction and management purposes, under the term and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and

- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Tommy Oi
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



NORTH

0 200 400 800

SCALE IN FEET

EXHIBIT "A"

Figure 2
TAX MAP (Portion)

Kapaa, Kauai

Wilson's



5/23/07
DATE

[illegible]



STATE OF HAWAII
DEPARTMENT OF HEALTH
3040 UMI STREET
LIHUE, HAWAII 96766

Dileep G. Bal, M.D., M.S., M.P.H.
DISTRICT HEALTH OFFICER

March 17, 2010

Tommy Oi, District Land Agent - Kauai
State of Hawaii
Department of Land and Natural Resources
Land Division
3060 Eiwa Street, Room 205A
Lihue, Hawaii 96766

Dear Mr. Oi:

SUBJECT: Request for Grant of Non-exclusive Perpetual Easement for Access and Utility Purposes and Immediate Right-of-Entry for Planning and Construction within Governor's Executive Order 4217 to the County Of Kauai, Kapaa, Kawaihau, Kauai.

LOCATION: TMK: (4) 4-6-14: 20

APPLICANT: Kauai Island Utility Cooperative

Reference No.: **10KD-003**

We have reviewed the subject proposal submitted and offer the following environmental health concerns for your consideration at this time.

1. Temporary fugitive dust emissions could be emitted when the project site is prepared for construction and when construction activities occur. In accordance with Chapter 11-60.1, entitled "Air Pollution Control", Title 11, Hawaii Administrative Rules (HAR), effective air pollution control measures shall be provided to minimize or prevent any fugitive dust emissions caused by the construction work from impacting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
2. In accordance with Chapter 11-58.1, entitled "Solid Waste Management Control", Title 11, HAR, the grubbed material and construction waste that will be generated by the project shall be disposed of at a solid waste disposal facility

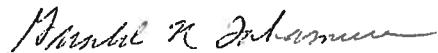
EXHIBIT "B"

that is in compliance with the State Department of Health (DOH). The open burning of any of these wastes on or off site is prohibited.

3. Noise will be generated during the construction and demolition phase of this project. The applicable maximum permissible sound levels as stated in Title 11, HAR, Chapter 11-46, entitled Community Noise Control shall not be exceeded unless a noise permit is obtained from the DOH.

Should you have any questions, please call me at 241-3323.

Sincerely,



Gerald N. Takamura, Chief
District Environmental Health Program Kauai

EXHIBIT 7181HX3